

223—48.31 (404A) Registration application. If the department has approved Part 1 and Part 2 applications for a project, the applicant may submit a historic tax credit registration application during the applicable registration period. The registration application is used to determine whether the project is ready to proceed both financially and logistically. The registration application is also used to confirm whether the proposed work will meet the substantial rehabilitation test and whether the project is a small project or a large project. The registration application is also used to obtain background information, including information that may disqualify an applicant from participating in the program, as well as other information about the applicant, related persons, and related entities. Though the application process is largely the same for small projects as it is for large projects, there are some differences. For details on those differences, see rule 223—48.26(404A).

48.31(1) Proof of status as eligible taxpayer. An eligible taxpayer as defined in rule 223—48.22(404A) may submit a registration application.

a. An applicant that is the fee simple owner must notify the department of any changes in ownership status since the Part 2 application was filed.

b. If the applicant is not the fee simple owner but plans to apply for the federal rehabilitation credit, the applicant's application will be scored based on the steps taken toward ownership as described in subrule 48.31(6). The applicant must certify that the applicant understands that the applicant will not qualify for any state historic tax credit if the applicant is not the fee simple owner or not otherwise an eligible taxpayer. The applicant must also provide proof of permission from the fee simple owner as described in subrule 48.27(2).

48.31(2) Submission period. In general, applications for registration will only be accepted during the established application period, or periods, as identified by the department from time to time on its Web site. However, applications for small project registration will be accepted year-round.

48.31(3) Required information. The registration application must include the following information as well as any additional information the department or the department of revenue may request: total project cost, an estimated schedule of qualified rehabilitation expenditures and a schedule of all funding sources received or anticipated to be received that will be used to fund the project, including those funding sources used or that will be used to finance or reimburse both qualified rehabilitation expenditures and those expenditures not being claimed as qualified rehabilitation expenditures, along with supporting documentation. The schedule must identify all government funding as defined in rule 223—48.22(404A), including any funding that originated or will originate from any government, whether federal, state, or local.

48.31(4) Certification and release of information. The applicant must identify and list all related persons and related entities, as those terms are defined in rule 223—48.22(404A). The applicant must release information requested by the department regarding the applicant, related persons, and related entities. The applicant must also certify that all representations, warranties, documents, or statements made or furnished in connection with the registration application are true and accurate. The certification and release of information are intended to identify information that will disqualify an applicant from participating in the program or that may have an adverse impact on the project. The certification and release of information are also intended to provide the department with information regarding the economic, ownership, and management realities related to the project by providing information about the actual persons and businesses affiliated with the applicant, the actual persons and businesses that will derive financial benefits from the project, as well as other businesses affiliated with the individuals involved with the project.

a. The department shall reject an application for registration if any of the following occurs or exists:

(1) The applicant fails to answer the questions and provide all requested information and documents in a timely manner as required by the rules or the application or in a timely manner as otherwise requested by the department.

(2) The applicant provides false or inaccurate information or documents to the department.

(3) The applicant, a related person, or a related entity has not filed any local, state, or federal tax returns that are due. This provision shall not apply to an applicant, related person, or related entity that has timely filed an extension to file a local, state or federal tax return.

(4) The applicant, a related person, or a related entity has any overdue local, state, or federal tax liability, including any tax, interest, or penalty.

(5) The applicant, a related person, or a related entity is currently in default, has an uncured breach, or is otherwise not in compliance with any contract, grant award, or tax credit program with the state of Iowa, any agency of the state of Iowa, or any other entity or instrumentality of the state of Iowa.

(6) The applicant, a related person, or a related entity has any past-due amounts owed to the state of Iowa, any agency of the state of Iowa, any other entity or instrumentality of the state of Iowa, or any person or entity that is eligible to submit claims to the state offset system under Iowa Code section 8A.504.

(7) The department determines, in its sole discretion, that registering the project, entering into an agreement with the department, or permitting the applicant's tax credit claim would cause the applicant or another person to default on, breach, or otherwise not comply with any contract, grant award, or tax credit program with the state of Iowa, any agency of the state of Iowa, or any other entity or instrumentality of the state of Iowa.

(8) The department determines, in its sole discretion, that the applicant will not be able to provide representations, warranties, conditions, or other terms of an agreement that would be acceptable to the department.

(9) Information is disclosed to the department that would cause the department, in its sole discretion, to decline to enter into an agreement with the applicant.

b. Scope of inquiry. The department may ask the applicant to disclose information and documents about other entities affiliated with the applicant, a related person, or a related entity if the department determines that the information regarding the applicant, related persons, and related entities does not adequately disclose to the department the economic, ownership, and management structure and realities related to a project.

48.31(5) Review period. In general, the department and the department of revenue will review fully completed registration applications within 30 calendar days of receipt. The 30-day review period will be adhered to as closely as possible; however, it is not mandatory. If any answers, responses, explanations, documents, or other information submitted in connection with the certification and release of information changes after the applicant has submitted this information to the department, the applicant must supplement its response to the certification and release of information in writing within 10 business days of the change. If the application is incomplete when submitted or if for any other reason the department or the department of revenue must request additional information, the 30-day review period will restart when the requested information is received by the department or the department of revenue, as the case may be. The department will reject an application if any requested information is not provided.

48.31(6) Scoring process. All completed applications will be reviewed and scored. In order for a project to be considered for registration, the application must meet a minimum score as established from time to time by the department and set forth in the current registration application. Scoring of the application will take into account readiness criteria, which may include the following:

a. Rehabilitation planning and project readiness. Projects will be scored based on whether the Part 2 application was approved with or without conditions.

b. Secured financing. Weighted preference will be given to projects that have financing or equity or both in place.

c. Steps taken towards ownership. Weighted preference will be given to the projects of applicants that are currently fee simple owners of the property.

d. Local government support. Weighted preference will be given to projects that have received support from their local jurisdiction.

e. Rehabilitation time line. Weighted preference will be given to projects that will be completed in the shortest amount of time.

f. Zoning and code review. Weighted preference will be given to the projects of applicants that can demonstrate a determination by the authority having jurisdiction that the project complies with the guidelines for construction permitting.

g. Such other information as the department may find relevant and request on the registration application.

48.31(7) Tiebreaker criteria. If the estimated maximum tax credit awards for all projects that scored above the minimum-score threshold based on the criteria in subrule 48.31(6) exceed the fiscal year tax credit allocation and there is a tie between two or more projects and the department does not have sufficient tax credits to allocate to the two or more projects that have the same score, the department will use the following criteria to evaluate those projects that are tied for the lowest score:

a. Statewide economic priorities. Weighted preference will be given to projects that address statewide economic priorities, including: permanent job creation; whether the project is in a federal or state disaster area; and whether the project is in a cultural and entertainment district or specifically mentioned in a great places contract.

b. Vacant property. The department will consider whether the properties are underutilized or not occupied and give preference to those projects on properties that are the most underutilized.

c. Preservation of rural resources. The department will evaluate projects based on the population size of the surrounding community with preference given to projects in communities with the lowest number of residents.

d. Previous application. The department will give weighted preference to projects for which the registration application had been successfully completed and which met the minimum score threshold during a previous application period but were not registered due to lack of available tax credits.

e. Other criteria. The department may give preference to projects based on such other criteria as the department may find relevant and request in the registration application.

48.31(8) Registration. Upon reviewing and scoring all applications that are part of the application period, the department may register the qualified rehabilitation projects to the extent sufficient tax credits are available based on the estimated qualified rehabilitation costs identified in the registration applications. Only projects that meet the minimum score established by the department may be registered. As described in rule 223—48.24(404A), in the case of insufficient funding, preference will be given to the projects with the highest registration score based on the criteria in subrules 48.31(6) and 48.31(7). At the time the project is registered, the department shall make a preliminary determination as to the amount of tax credits for which the project qualifies. The department shall make best efforts to notify the applicant within 45 calendar days after the close of the registration period as to whether the applicant's project has been registered. The registration notice shall include the amount of the applicant's tentative tax credit award, along with a notice that the amount is a preliminary, nonbinding determination only. The department will notify applicants whose projects were not registered and state whether the failure to register the project was due to the failure of the project to meet the minimum score, the lack of available tax credits, or another reason. A list of registered applicants will be posted on the department's Web site.

48.31(9) Small project registration application. The department may establish for small projects a registration application form and process that differ from the application form and process used for large projects. The forms will be available on the department's Web site. Small projects may submit registration applications year-round; however, the registration application must be submitted no later than 180 calendar days after receipt of approval of the Part 2 application from the department. Small project registration applications will be evaluated on a first-come, first-served basis, subject to the availability of tax credits.

This rule is intended to implement Iowa Code section 404A.3 as amended by 2014 Iowa Acts, House File 2453.